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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,471	08/15/2000	DIRK FREUND	1826-017	8771

9629 7590 05/29/2003

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EXAMINER	
NASSER, ROBERT L	

ART UNIT	PAPER NUMBER
3736	14

DATE MAILED: 05/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

GL

Office Action Summary

Application No.	Applicant(s)
09/582,741	Freund et al
Examiner	**Art Unit**
Robert Nasser	3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Mar 18, 2003 .

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 16-42 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 16-18, 20-25, 27-32, 37-39, 41, and 42 is/are rejected.

7) ☒ Claim(s) 19, 26, 33-36, and 40 is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20, 22, and 27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. These claims distinguish between position or orientation of the limb. However, applicant only discloses measuring the angular orientation of the arm, which is an indication of position. Essentially, applicant uses these terms interchangeably. Hence, there is no support for distinguishing between the two. Since this feature was added via amendment, they constitute new matter.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 16-18, 22-25, 29-32, 37-39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being anticipated by Ota et al US 5,778,879 in view of Peel III. Ota et al has a blood pressure measuring device 12 that includes a sensor for sensing the orientation of the arm that the blood

pressure measuring device is on. The system provides feedback as to which way to move the arm for it to be properly positioned, by displaying "too high" or "too low" on the display. Once it is properly positioned, the user presses the start button to trigger a blood pressure measurement. Accordingly, the only difference between Ota and the present invention is the that the present invention automatically triggers the blood pressure measurement upon satisfaction of the condition, e.g. proper positioning. Peel III is a device that makes blood pressure measurements that detects a condition and when the condition is satisfied (passage of a predetermined time period since the last measurement) automatically triggers a measurement. From this teaching, it would have been obvious to modify Ota et al to automatically trigger the measurement, to simplify its operation. In addition, the combination displays both pulse rate and blood pressure. With respect to claims 32 and 42, one skilled in the art would recognize that there are a number of ways to indicate that the angle is too high or too low and hence it would have been obvious to use arrows rather than words.

Claims 16-18, 22-25, 29-32, 37-39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being anticipated by Ota et al JP 08215162. in view of Peel III . The second Ota reference is the Japanese language publication of the priority document to the US version of Ota. It has the same figures and presumably, the same disclosure.. Ota et al has a blood pressure measuring device 12 that includes a sensor for sensing the orientation of the arm that the blood pressure measuring device is on. The system provides feedback as to which way to move the arm for it to be properly

positioned, by displaying "too high" or "too low" on the display. Once it is properly positioned, the user presses the start button to trigger a blood pressure measurement. Accordingly, the only difference between Ota and the present invention is the that the present invention automatically triggers the blood pressure measurement upon satisfaction of the condition, e.g. proper positioning. Peel III is a device that makes blood pressure measurements that detects a condition and when the condition is satisfied (passage of a predetermined time period since the last measurement) automatically triggers a measurement. From this teaching, it would have been obvious to modify Ota et al to automatically trigger the measurement, to simplify its operation. In addition, the combination displays both pulse rate and blood pressure. With respect to claims 32 and 42, one skilled in the art would recognize that there are a number of ways to indicate that the angle is too high or too low and hence it would have been obvious to use arrows rather than words.

Claims 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Ota reference in view of Peel III, as applied to claims 16-18, 22-25, 29-32, 37-39, 41, and 42 above, and further in view of Odagiri et al. Odagiri et al teaches that in order to be an accurate measurement, blood pressure measurements must be compensated for the effects of motion. Hence, it would have been obvious to modify the above combination to correct for motion's effects, so to increase the accuracy of measurement.

Claims 19, 26, 28, 33-36, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

No art was applied to claims 20 and 27.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicant's arguments filed 3/18/2003 have been fully considered but they are deemed moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser Jr. whose telephone number is (703) 308-3251. The examiner can normally be reached on Monday-Thursday and alternate Fridays from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg, can be reached on (703) 308-3130. The fax phone number for this Group is (703) 308-0758.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**max.hindenburg@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0858.

RLN
May 28, 2003

Robert L. Nasser

ROBERT L. NASSER
PRIMARY EXAMINER